

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

| | | |
|---------------------------------|---|------------------|
| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 20499 |
| [Redacted], |) | |
| |) | DECISION |
| Petitioner. |) | |
| _____ |) | |

On June 14, 2007, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination (NODD) to [Redacted] proposing income tax, penalty, and interest for tax years 1998 through 2003 and 2005 in the total amount of \$22,283.

The petitioner protested the determination. He did not request a hearing, but did provide additional information. The Tax Commission, having reviewed the file, hereby issues its decision.

Idaho Code § 63-3030(a) states, in part:

63-3030. Persons required to make returns of income.

(a) Returns with respect to taxes measured by income in this chapter shall be made by the following:

(1) Every resident individual required to file a federal return under section 6012(a)(1) of the Internal Revenue Code.

(2) Any nonresident individual having for the current taxable year a gross income from Idaho sources in excess of two thousand five hundred dollars (\$2,500), or any part-year resident individual having for the current taxable year a gross income from all sources while domiciled in or residing in Idaho, and from Idaho sources while not domiciled in and not residing in Idaho, which in total are in excess of two thousand five hundred dollars (\$2,500);

Information available to the Tax Commission indicated the petitioner was an Idaho resident with an Idaho filing requirement. Because the petitioner did not file his 1998 through 2003 and 2005 Idaho individual income tax returns, the Bureau computed the petitioner's Idaho

income tax, penalty, and interest on his behalf and issued a NODD. The petitioner appealed the determination.

In the letter of appeal, the petitioner said he intended to file the missing returns. Subsequently, additional information regarding tax year 1998 and returns for tax years 1999 through 2003 and 2005 were submitted to the Tax Commission. Because the 1998 information established the petitioner would be entitled to a refund rather than tax due for that year, the Bureau sent the petitioner a letter advising him the NODD addressing tax year 1998 was cancelled. No refund was issued because the time allowed for claiming a refund or credit had expired.

The Idaho returns for 1999 and 2005 were adjusted to correct math errors and to allow credit for taxes paid to [Redacted] in 1999. The Idaho income tax returns received from the petitioner for 1999 and 2005 were accepted (subject to examination at a later date as provided in Idaho Code), and the portion of the NODD identifying those two years was cancelled. The petitioner's Idaho income tax responsibility for 1998, 1999, and 2005 will not be discussed further in this decision.

The 2000 through 2003 Idaho income tax returns submitted by the petitioner did not include a copy of the petitioner's federal income tax returns as required by Idaho Code. The petitioner indicated he was going to amend his federal returns to include a dependent. He provided a copy of his divorce decree to establish his right to claim one child as a dependent.

Idaho Code § 63-3002 provides, in part:

63-3002. Declaration of intent. It is the intent of the legislature by the adoption of this act, insofar as possible to make the provisions of the Idaho act identical to the provisions of the Federal Internal Revenue Code relating to the measurement of taxable income, to the end that the taxable income reported each taxable year by a taxpayer to the internal revenue service shall be

the identical sum reported to this state, subject only to modifications contained in the Idaho law; . . .

The intent of the Idaho Legislature is to follow the federal determination of income subject only to modifications contained in Idaho law. The Bureau sent the petitioner amended figures based on the income reported in the Idaho returns the petitioner submitted. The Bureau did not allow the additional exemption because it was not allowed by the [Redacted]. The petitioner responded stating that he was still trying to get the [Redacted] to allow him to claim one of his children as a dependent for the years at issue.

After allowing the petitioner additional time, the petitioner's file was transferred to the Legal/Tax Policy Division for administrative review. In response to a letter advising him of his appeal rights, the petitioner sent an email asking for an additional 60 days to continue with his efforts to convince the [Redacted] of his right to claim one of his children as a dependent.

In an email message on March 8, 2008, the petitioner said he was not successful at convincing the [Redacted] of his right to claim his child as a dependent. He said he did not wish to withdraw his protest because he felt he had the right to claim the child. He said, however, that he was ready to "assume the debt in question at this time."

The Bureau calculated the petitioner's Idaho income tax responsibility based on the [Redacted] and the Idaho State Tax Commission, and information provided by the petitioner. The [Redacted] were made available to the Tax Commission pursuant to [Redacted].

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Comm'n, 110 Idaho 572 (Ct. App. 1986). The burden is on the taxpayer to show that the tax deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

Absent information to the contrary, the Tax Commission accepts the Bureau's amended

calculation of Idaho income tax, penalty, and interest for tax years 2000 through 2003. Withholding in the amount of \$1,835 for 2000, \$599 for 2001, \$1,564 for 2002, and \$2,294 for 2003 was allowed to offset each year's tax due. The interest and penalty calculated pursuant to Idaho Code §§ 63-3045 and 63-3046 were reviewed and found to be proper and in accordance with Idaho Code.

WHEREFORE, the Notice of Deficiency Determination dated June 14, 2007, is hereby MODIFIED and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pays the following tax, penalty, and interest:

| <u>YEAR</u> | <u>TAX</u> | <u>PENALTY</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|-------------|------------|----------------|-----------------|----------------|
| 2000 | \$ 50 | \$ 13 | \$ 22 | \$ 85 |
| 2001 | 283 | 71 | 105 | 459 |
| 2002 | 1,269 | 317 | 388 | 1,974 |
| 2003 | 1,090 | 273 | 276 | <u>1,639</u> |
| | | | TOTAL DUE | <u>\$4,157</u> |

Interest is calculated through April 15, 2008.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioner's right to appeal this decision is enclosed.

DATED this _____ day of _____, 2008.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2008, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.
